



Practitioner's Docket No. 944-003.088

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re application of: Anna Karri et al.
Application No.: 09/863,897 Group No.: 2683
Filed: May 23, 2001 Examiner: William D. Cummings
For: System for Personal Messaging

Mail Stop Appeal Brief—Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION—37 C.F.R. § 41.37)**

NOTE: The phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) (which provides an adjustment of patent term if there is a delay on the part of the Office to respond within 4 months after an "appeal was taken") means the date on which an appeal brief under § 1.192 (and not a notice of appeal) was filed. Compliance with § 41.37 requires that: 1. the appeal brief fee (§ 41.20(b)(2)) be paid (§ 41.37(a)(2)); and 2. the appeal brief complies with §§ 41.73(c)(i)–(x). See Notice of September 18, 2000, 65 Fed. Reg. 56366, 56385–56387 (Comment 38).

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on August 15, 2005

NOTE: Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31. 37 CFR 41.1(a)(1). The brief is no longer required in triplicate. The former alternative time for filing a brief (within the time allowed for reply to the action from which the appeal was taken) has been removed. Appellant must file within two months from the notice of appeal. See Notice of August 12, 2004, 69 FR 49960, 49962.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

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* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

2. STATUS OF APPLICANT

This application is on behalf of

other than a small entity.
 a small entity.

A statement:

is attached.
 was already filed.

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:

<input type="checkbox"/> small entity	\$250.00
<input checked="" type="checkbox"/> other than a small entity	\$500.00

Appeal Brief fee due \$ 500.00

4. EXTENSION OF TERM

NOTE: 37 C.F.R. § 1.704(b) ". . .an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

NOTE: The time periods set forth in 37 C.F.R. § 1.192(a) are subject to the provision of § 1.136 for patent applications. 37 C.F.R. § 1.191(d). See also Notice of November 5, 1985 (1060 O.G. 27).

NOTE: As the two-month period set in § 1.192(a) for filing an appeal brief is not subject to the six-month maximum period specified in 35 U.S.C. § 133, the period for filing an appeal brief may be extended up to seven months. 62 Fed. Reg. 53,131, at 53,156; 1203 O.G. 63, at 84 (Oct. 10, 1997).

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(complete (a) or (b), as applicable)

(a) Applicant petitions for an extension of time under 37 C.F.R. § 1.136
(fees: 37 C.F.R. § 1.17(a)(1)-(5)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00
<input type="checkbox"/> five months	\$ 2,160.00	\$1,080.00

Fee: \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

An extension for _____ months has already been secured, and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

or

(b) Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee \$ 500.00

Extension fee (if any) \$ _____

TOTAL FEE DUE \$ 500.00

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Authorization is hereby made to charge the amount of \$ _____
 to Deposit Account No. 23-0442

to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

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7. FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to change the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.

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AND/OR

If any additional fee for claims is required, charge:
 Deposit Account No. 23-0442

Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

Scr No. 09/863,897
Att. Docket: 944-3.88



SIGNATURE OF PRACTITIONER

Date: August 31, 2005

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(type or print name of practitioner)

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(Transmittal of Appeal Brief [9-6.1]—page 4 of 4)



Att. Docket 944-3.88
Serial No. 09/863,897

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

First named inventor: Anna Karri
Serial No.: 09/863,897
Filed: May 23, 2001
Title: System for Personal Messaging
Group Art Unit: 2683
Examiner: Cumming, William D.

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450

BRIEF FOR APPELLANT

Sir:

This is a brief for an appeal from an Office Action mailed 18 May 2005, made final, and a subsequent Advisory Action, mailed 28 July 2005, maintaining the rejections in response to a request for reconsideration mailed 12 July 2005.

This brief follows a Notice of Appeal mailed 15 August 2005.

For all of the reasons discussed below, it is the belief of the undersigned that the claims of the application do distinguish the invention from the art relied on by the Examiner. Nevertheless, the undersigned is always willing to discuss possible amendments to any claims to clarify or resolve any issues related to claim interpretation that may remain after the Examiner has reviewed applicant's brief. The Examiner is strongly encouraged to call the undersigned to discuss making any such amendments.

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I. THE REAL PARTY IN INTEREST

The real party in interest is Nokia Corporation, having a principal place of business at Keilalahdentie 4, FIN-02150 Espoo, Finland.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

III. STATUS OF CLAIMS

The final Office action examined claims 1, 2 and 4-24 and rejected same. Claim 3 was canceled by applicant. For this appeal, the claims are unchanged. The independent claims are 1, 11 and 24. Claims 1, 11 and 24 are rejected only under 35 USC §103(a) as being unpatentable over Kim (U.S. Pat. No. 6,597,918) in view of Wakatsuki (U.S. Pat. No. 6,792,450). The other claims are rejected based on the rejections of claims 1, 11 and 24.

IV. STATUS OF AMENDMENTS

No amendments have been filed since the mailing of the final Office action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The independent claims involved in the appeal are claims 1, 11, and 24, and a concise summary of the subject matter as claimed in the independent claims involved in the appeal is as follows:

Claim 1, per its preamble, is to a method for use in conveying a plurality of messages (which, as recited later, convey a funny, explained below) from a sending terminal to a receiving terminal (each of which could be a mobile terminal as in Fig. 5, or could be a desktop computer with access to a telecommunications network/ system, as explained below) over a telecommunications system that is at least in part a wireless telecommunications system. As explained in the application at page 3, ll. 7-14, the

invention is in response to a perceived need for a way to be able to send a series of pictures (called frames in the application) that in combination make up what is here called a funny and so convey a single complete message, a way that allows the user to send the entire funny as a single message in that the user is not required to perform the same action for transmitting each picture and text, and likewise the recipient is able to receive and display the funny as a single message, comprising a series of pictures (frames), although only part of the message (e.g. one frame) would usually be viewable at any one time. As explained at page 13, line 28, other parts of the communication path may include a wireline communications network.

As recited in claim 1, the plurality of messages conveys a plurality of frames of a funny, so that each frame is conveyed by one or more of the messages, and each frame is logically related to at least one other of the frames. Page 6, ll. 10-12, explain a "funny" to be a sequence of pictures and associated text that in combination and in a particular order make up a message. Figs. 1-3 show examples of different funnies being displayed on a terminal device. Each of Figs. 1-3 illustrate a different three-frame-long funny. For example, in Fig. 1, described at page 6, line 17, a terminal is shown first displaying a first frame 10a, and then a second frame 10b, and finally a third frame 10c. The term "funny" is to be understood to encompass not only a funny as in a comic strip and so comprising "frames" as in a comic strip, but also other kinds of frames. Fig. 3 is an example of a "funny" that is a puzzle, as opposed to a "comic strip" type of funny. See page 8, beginning line 30, and continuing to page 9, line 6. (The first frame 31a of the funny shown in Fig. 3 instructs the receiver of the funny to look for differences between what is shown in the picture of the first frame and the pictures that follow in the second and third frames 31b 31c. The number of differences is indicated below the pictures of the second and third frames.)

In using the invention, a user first creates a funny, which amounts to possibly creating from scratch the frames of a funny and arranging the frames in a desired order, but could also include obtaining a pre-existing funny, editing it, and either reordering the frames or accepting the existing order. Thus, the creating and arranging in order can be done many ways, as set out e.g. at page 12, line 23, through page 13, line 3 (which explains that the user can even reorder frames of an already existing funny). See also Fig. 5, showing a mobile terminal including a "funny composer for composing a funny," which is explained (at e.g. page 10, ll. 17-20), as a module for enabling a user to compose funnies based on existing picture messages, clipart, and even other existing funnies. See also page 7, line 2, which describes the assembling of pictures and text into a single, personalized message, i.e. a funny. The composing of a funny thus can include an ordering of frames of a funny by the terminal, in response to inputs by the user creating the funny, an ordering that may or may not be distinct and separate from the process of creating the frames of a funny; instead, the ordering may be performed at the same time and in conjunction with creating the frames of a funny. Thus, and as recited in claim 1, the sending terminal assembles the plurality of messages conveying the frames of a funny in a desired order according to inputs by a user, i.e. the terminal uses signals indicating the desired order, as opposed to determining the order without input signals indicating the ordering. (The plurality of messages is ordered in this "assembling" by the user indicating to the terminal the order of the frames, which then determines the ordering of the messages used to convey the frames.)

Next, according to claim 1, the sending terminal indicates in each message the order of the message in the desired order, i.e. the sending terminal uses the ordering provided in the assembling step--i.e. the desired order--to modify each message by adding to it a number indicating its position in the desired order. See

page 11, ll. 14-19 (in connection with Fig. 4). See also page 12, ll. 4-13, which, in addition to explaining the indication of an order, notes that a message may convey only part of a frame of a funny, since, depending on the protocol in use (e.g. SMS), a frame may be too long to convey as a single message. The application at page 12, ll. 9-12, refers to Fig. 5, and in particular the block labeled "SMS messages creator," which is shown as a module that indicates in each SMS message in a plurality of such messages used to convey a funny, the order in which the messages are to be assembled by the receiving terminal.

Thus, according to claim 1, the step of "assembling" (in a desired order according to inputs by a user) is prefatory to (i.e. preliminary to) the step of "indicating" (the desired order), because the "indicating" step uses as an input "the desired order" which is provided by the "assembling" step.

Next, according to claim 1, the sending terminal sends all of the messages to the receiving terminal in response to an input by the user. See page 11, ll. 11-14, referring to Fig. 4, which shows (in the last step performed by the sender) the sending terminal receiving a command to send a funny as a single, unified message. See also page 9, ll. 15-18.

Claim 11 recites means corresponding to the steps recited in method claim 1. Therefore, the above concise summary of the subject matter claimed by claim 1 is respectfully submitted as sufficient also for purposes of claim 11.

Claim 24 is to a system comprising: a sending terminal (e.g. the mobile terminal for which a block diagram is provided in Fig. 5, but also possibly a desktop computer, as explained at page 13, beginning line 25 and continuing to page 14, line 2), adapted for conveying to a receiving terminal (also e.g. the mobile terminal for which a block diagram is provided in Fig. 5, i.e. the sending and receiving terminal could be similarly equipped and configured mobile phones, or at least one could be a desktop computer with

access to a communications network), via a wireless communications network (at least for part of the communications path, while other parts may be a wireline communications network, as explained at page 13, line 28), a plurality of messages (e.g. messages conveying the frames 10a-c of Fig. 1), and including in each message ordering information indicating a position for the message in a desired ordering of the plurality of messages (as explained at e.g. p. 12, ll. 9-12, with the "desired ordering" a result of a user using the funny composer shown in Fig. 5, so as to compose funnies based on existing picture messages, clipart, and other existing funnies, as explained at p. 10, ll. 18-19, or possibly even reordering the frames of a funny, as explained at page 13, ll. 1-2); and the receiving terminal, adapted for receiving the plurality of messages and ordering the message in the desired order as indicated by the ordering information (as explained at page 12, ll. 12-15); wherein the plurality of messages conveys a plurality of frames of a funny, so that each frame is conveyed by one or more of the messages, and wherein each frame is logically related to at least one other of the frames (as explained at page 6, ll. 10-12, explaining a "funny" to be a sequence of pictures and associated text that in combination and in a particular order make up a message).

VI. ISSUES

The following issues will be addressed in the argument: whether the final Office action and the subsequent advisory action erred in rejecting claims 1, 11 and 24 under 35 USC §103(a) as being unpatentable over Kim in view of Wakatsuki, and so erred in rejecting the other claims as well.

VII. GROUPING OF THE CLAIMS

Group 1: Claim 1 to a method for use by a terminal in conveying a plurality of messages is argued. Claims 2 and 4-19 stand or fall with claim 1. (Claims 2 and 4-10 depend from claim

1 and are not separately argued. Independent claim 11 to a terminal includes limitations corresponding to those of claim 1, and claims 12-20 depend from claim 11. None of claims 11-20 are separately argued.)

Group 2: Claim 24 to a system including both a sending terminal and a receiving terminal is argued. Claims 21-23 depend (directly or indirectly) from claim 24 and in addition claim a server, but here stand or fall with claim 24.

VIII. ARGUMENT

A. ERROR IN REJECTING CLAIM 1 UNDER 35 USC SECTION 103

In the final Office action (and subsequent advisory action), the Examiner asserts that Kim discloses the invention as in claim 1 except for disclosing "the plurality of frames to be frames of a funny," and so relies on Wakatsuki for disclosing "the use of a plurality of frames to be frames of a funny."

Kim teaches breaking up a single long message (longer than allowed in a single SMS frame) into component messages and indicating in each its ordering, sending the long message as a sequence of messages, and then reassembling the long message at the receiving end out of the component messages, using the order indicated in each provided during the breaking up process. (All of this is explained in the abstract.) Claim 1, on the other hand, recites assembling a plurality of messages in a desired order according to inputs by a user, indicating in each its order in the plurality, and sending all of the messages to a receiving terminal in response to an input by the user.

The Examiner asserts that the disclosure in Kim of breaking up the long message into components and indicating in each component its order is encompassed by the second recited step: indicating in each of a plurality of messages its order (as determined by the first recited step of assembling the plurality of messages in a desired order). The Examiner next asserts that

Kim's sending of the long message as a sequence of messages is encompassed by the third recited step: sending all of the messages to a receiving terminal in response to an input by the user. Finally, the Examiner asserts that Kim's reassembling/reconstructing at the receiving end of the component messages is encompassed by the first recited step: assembling a plurality of messages in a desired order according to inputs by a user. (See the final Office action at section 6, which refers to the Office action dated May 19, 2004, "except for the plurality of frames to be frames of a funny." The Office action of May 19, 2004, cites Kim at col. 1, line 49 through col. 2, line 34, for disclosing the assembling step recited in the claim, and cites in Kim Figs. 1-3 and col. 3, line 7, through col. 4, line 34, for disclosing the indicating of order step recited in the claim, and cites col. 1, line 53 through col. 2, line 34, and col. 3, line 7, through col. 4, line 34, for disclosing the transmitting step recited in the claim.)

Applicant respectfully submits that Kim does not in fact teach or suggest the first recited step: the sending terminal assembling a plurality of messages in a desired order according to inputs by a user. The disclosure relied on in Kim is a disclosure not of the assembling as in claim 1, which is an ordering by a user, but instead a reassembling in the sense of a reconstructing or rebuilding of a message from its components. Thus, the rejection cannot stand.

Further, applicant respectfully submits that Kim does not in fact teach or suggest the second recited step: the sending terminal indicating in each message the order of the message in the desired order. Instead, Kim discloses a sending terminal indicating in each component of a long message its order as an automatic result of the sending terminal breaking up the long message into the components. In contrast, the second recited step indicates in a message (which could be a long message) "the desired order," i.e. the order indicated by a user. Thus, the

second recited step uses the result of the first recited step as its starting point. Thus, the rejection cannot stand.

Further, as mentioned in the "Summary of Claimed Subject Matter," according to claim 1 the step of "assembling" (in a desired order according to inputs by a user) is prefatory to the step of "indicating" (the desired order), because the "indicating" step uses as an input "the desired order" provided by the "assembling" step. Thus claim 1 implies an order to the steps recited there, and it is well-settled that when a claim does recite steps in such a way that the order is expressly or impliedly limited, the scope of the claim is so limited. In *Interactive Gift Express, Inc. v. Compuserve Inc.*, 56 USPQ 2d 1647, 1661 (Fed. Cir. 2000), the Federal Circuit explained (citing *Loral Fairchild Corp. v. Sony Corp.*, 181 F.3d 1313, 1322, 50 USPQ2d 1865, 1870 (Fed. Cir. 1999)):

Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one. ... However, such a result can ensue when the method steps implicitly require that they be performed in the order written.

Now as explained, in asserting the Kim discloses the "assembling" step of claim 1, the Examiner relies on Kim teaching a receiving terminal reassembling into a long message received component messages of the long message. But this step is after the "indicating" and "sending" steps, and so cannot be said to be encompassed by the "assembling" step, which is clearly impliedly limited as prefatory to the "indicating" and "sending" steps, as explained above. Thus, the rejection cannot stand.

Further, as noted, the Examiner concedes that Kim fails to disclose sending frames of a funny, and so relies on Wakatsuki. Applicant respectfully submits that at the cited locations in Wakatsuki (figures 7a-7c) what is disclosed is merely displaying on a communication terminal apparatus in "electronic comic mode" a plurality of still pictures downloaded from an electronic comic

server (sometimes called a "center"). Wakatsuki nowhere discloses frames of a funny in connection with any of the limitations recited in claim 1, not the assembling of frames in an order, nor the indicating of the order, nor the sending of all the frames in response to an input by a user. Further still, Wakatsuki actually teaches away from the invention, where it discloses (col. 4, ll. 48-50) that:

The communication terminal apparatus 10 prepares operation modes of the download mode [for getting a funny from the server] and the electronic comic mode [for viewing a funny] as other modes than this telephone mode.

So Wakatsuki teaches that the viewing of what the application calls a funny is not for telephonic communication. Applicant therefore respectfully submits that there is no proper ground for asserting, as in the final Office action, that it would have been obvious to use the method of Kim to transmit a plurality of frames of a funny, instead of a single long message.

Since Wakatsuki nowhere discloses a funny in connection with any of the limitations recited in claim 1, applicant respectfully submits that Wakatsuki is merely evidence that the prior art includes a funny. But applicant is not claiming to have invented a funny, as that term is used in the application and also as in Wakatsuki; applicant claims only to have invented a method by which a funny is transmitted as possibly several messages from a sending telecommunications terminal to another (receiving) telecommunications terminal, a method that works because it includes steps of assembling messages conveying the frames of a funny (by assembling the frames themselves) according to a desired order provided by inputs (from a user), indicating in each message its order, and then communicating the entire funny (i.e. all of the messages) in response to an input by the user indicating that the entire funny be communicated, as opposed to the user having to repeat the input for each frame. It is thus, applicant respectfully submits, unfair to reject the claims using art having no relationship to a funny (namely Kim), combined with

art showing merely that the prior art includes a funny, but not showing any of the steps/ means of the invention as claimed. Therefore, applicant respectfully submits the rejection cannot stand.

One more note relevant to the appeal and responsive to the final Office action and the subsequent advisory action: The final Office action asserts that "... it [sic] is the response of July 2, 2004 made it clear that the only difference between Kim and applicants [sic] invention is the information, which the funny." Applicant's attorney objects to such a characterization of the record. Nowhere on the record are there statements by applicant's attorney that could reasonably be relied on by the Examiner for such a characterization. When applicant's attorney wrote to clarify the record in that regard (in the request for reconsideration in response to the final Office action), the Examiner asserted in the Advisory Action that applicant's attorney was trying to "invalidate what he stated in the Office action [sic] of July 2, 2004." Although neither the final Office action nor the Advisory action indicate where in the response of July 2, 2004, applicant's attorney is supposed to have made the statements relied on by the Examiner for his characterization, applicant suspects that it is the statement made in connection with distinguishing the term "frames" as used in Kim, with "frames" (of a funny), as used in the application. The response included:

So Kim does not disclose a plurality of messages being conveyed by a plurality of frames in the sense used in the application, i.e. frames of a funny, as in claims 1, 11 and 24; instead, Kim teaches breaking up one message that is longer than a single SMS frame and sending it in pieces.

Applicant respectfully submits that it is clear from a reading of the Office action and the entire response of July 2, 2004, that the above statement must be understood in terms of the context of the discussion of the term "frames" in Kim, compared to the meaning of that term in the claims. As a result of that Office

action, the Office cited a new ground for rejecting claim 1: instead of rejecting claim 1 under 35 USC §102 as anticipated by Kim, the Office (by way of the present Examiner) then rejected claim 1 as above, i.e. under 35 USC §103 as unpatentable over Kim in view of Wakatsuki. The response to the July 2, 2004, was deemed persuasive to overcome the rejections in the Office action being responded to. Applicant can hardly be penalized for needing to rely on only a single major distinction between the cited art and the invention as claimed, to overcome a rejection. When the Office conceded that the distinction was dispositive by providing a combination of references as a new ground of rejection (Kim and Wakatsuki, as above), applicant then distinguished the invention from the combination using other arguments. Applicant respectfully submits that the other arguments are not inconsistent with any statements made earlier.

B. ERROR IN REJECTING CLAIM 24 UNDER 35 USC SECTION 103

Claim 24 recites a sending terminal for conveying to a receiving terminal via a wireless communications network a plurality of messages, and including in each message ordering information indicating a position for the message in a desired ordering of the plurality of messages. Applicant respectfully submits that, as argued in traversing the rejection of claim 1, the limitation "in a desired ordering of the plurality of messages" distinguishes the invention as in claim 24 from the teachings of Kim in which component messages are sent including information indicating a position in a long messages according to an automatic dividing up process of the long message. Thus, for essentially the same reasons as give for claim 1, Kim cannot fairly be asserted to teach or suggest the invention as in claim 24 irrespective of the limitation regarding the plurality of messages conveying a plurality of frames of a funny.

In addition, the same argument made objecting to the Office combining the teachings of Kim with Wakatsuki applies also to claim 24.

C. COROLLARIES OF THE PRECEDING ARGUMENTS

It has been argued above that there was error in rejecting claims 1, 11 and 24 under 35 USC §103. Accordingly, and as set out in the above grouping of the claims, it is here asserted that there was error in the rejections under 35 USC §103 of the other claims remaining in the application.

IX. CONCLUSION

For all of the aforementioned reasons, it is respectfully submitted that the rejections of all the claims in the application, namely claims 1, 2 and 4-24, are error, and the rejections should be reversed. Allowance of all the claims in the application is earnestly solicited.

Respectfully submitted,


James A. Retter
Registration No. 41,266

August 31, 2005

Date

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X. APPENDIX--THE CLAIMS INVOLVED IN THE APPEAL

1. (Previously presented) A method for use in conveying a plurality of messages from a sending terminal to a receiving terminal over a telecommunications system that is at least in part a wireless telecommunications system, the method comprising:

a) the sending terminal assembling the plurality of messages in a desired order according to inputs by a user;

b) the sending terminal indicating in each message the order of the message in the desired order;

c) the sending terminal sending all of the messages to the receiving terminal in response to an input by the user;

wherein the plurality of messages conveys a plurality of frames of a funny, so that each frame is conveyed by one or more of the messages, and wherein each frame is logically related to at least one other of the frames.

2. (Previously entered) The method of claim 1, further comprising the sending terminal associating with a frame of the plurality of frames a special effect to be performed when the frame is displayed.

3. Claim 3 is canceled.

4. (Previously entered) The method of claim 2, wherein the special effect is selected from the group comprising vibrating the frame, providing a sound when the frame is first displayed, providing a sound when the frame is closed, opening the frame in stages, and closing the frame in stages.

5. (Previously presented) The method of claim 1, further comprising the sending terminal preparing a frame of the plurality of frames by indicating a picture to be displayed in the frame and/or by providing text to be displayed in the frame.

6. (Previously presented) The method of claim 1, further comprising the sending terminal downloading from a service an already-created message and editing the text of a frame of the plurality of frames to personalize the plurality of frames for an assumed operator of the receiving terminal.

7. (Previously presented) The method of claim 1, further comprising the sending terminal downloading from a service or retrieving from stored memory an already-created picture for use as the picture of a frame of the plurality of frames and optionally providing text to be associated with the picture.

8. (Previously presented) The method of claim 1, wherein the plurality of frames is provided using a pre-existing message service selected from the group comprising short message service (SMS), extended message service (EMS), and multimedia messaging service (MMS).

9. (Previously presented) The method of claim 1, wherein the plurality of frames consists of three ordered frames, each frame comprising a picture and associated text personalized for an intended recipient.

10. (Previously entered) The method of claim 1, wherein the plurality of frames is protected from being copied using a form of protection selected from the group comprising: copy protection, digital rights management, and encryption.

11. (Previously presented) An apparatus for use by a sending terminal in conveying a plurality of messages to a receiving terminal via a wireless communications network, the apparatus comprising:

a) means for assembling the plurality of messages in a desired order according to inputs by a user;

b) means for indicating in each message the order of the message in the desired order;

c) means for sending all of the messages to the receiving terminal in response to an input by the user;

wherein the plurality of messages conveys a plurality of frames of a funny, so that each frame is conveyed by one or more of the messages, and wherein each frame is logically related to at least one other of the frames.

12. (Previously presented) The apparatus of claim 11, further comprising means for associating with a frame of the single message a special effect to be performed when the frame is displayed.

13. (Previously presented) The apparatus of claim 12, further comprising means for reviewing properties of a frame of the plurality of frames, including whether or not a special effect has been associated with the frame.

14. (Previously presented) The apparatus of claim 12, wherein the special effect is selected from the group comprising vibrating the frame, providing a sound when the frame is first displayed, providing a sound when the frame is closed, opening the frame in stages, and closing the frame in stages.

15. (Previously presented) The apparatus of claim 11, further comprising means for preparing a frame of the plurality of frames by indicating a picture to be displayed in the frame and/or by providing text to be displayed in the frame.

16. (Previously presented) The apparatus of claim 11, further comprising means for downloading from a service an already-created message and editing the text of a frame of the plurality of frames to personalize the plurality of frames.

17. (Previously presented) The apparatus of claim 11, further comprising means for downloading from a service or retrieving from stored memory of the apparatus an already-created picture for use as the picture of a frame of the plurality of frames and/or means for providing text to be associated with a picture.

18. (Previously presented) The apparatus of claim 11, wherein the plurality of frames is provided using a pre-existing message service selected from the group comprising short message service (SMS), extended message service (EMS) and multimedia messaging service (MMS).

19. (Previously presented) The apparatus of claim 11, wherein the plurality of frames comprises three ordered frames, each frame comprising a picture and/or associated text.

20. (Previously presented) The apparatus of claim 11, wherein the plurality of frames is protected from being copied using a form of protections selected from the group comprising: copy protection, digital rights management, and encryption.

21. (Previously presented) A system according to claim 24, further comprising: a server wirelessly coupled to the sending terminal and to the receiving terminal, for providing a picture to either the sending terminal or the receiving terminal in response to a request for the picture from either the sending terminal or the receiving terminal.

22. (Previously presented) The system of claim 21, wherein the server for providing a picture in response to a request for the picture does so in response to a bookmark communicated by the receiving terminal according to a wireless application protocol.

23. (Previously presented) The system of claim 21, wherein the server for providing a picture in response to a request for the

picture does so in response to a request communicated by the sending terminal, thereby making available the picture for use by the sending terminal in composing one or more of the plurality of messages.

24. (Previously presented) A system comprising:

a) a sending terminal, adapted for conveying to a receiving terminal via a wireless communications network a plurality of messages, and including in each message ordering information indicating a position for the message in a desired ordering of the plurality of messages; and

b) the receiving terminal, adapted for receiving the plurality of messages and ordering the message in the desired order as indicated by the ordering information;

wherein the plurality of messages conveys a plurality of frames of a funny, so that each frame is conveyed by one or more of the messages, and wherein each frame is logically related to at least one other of the frames.